

Message Text

CONFIDENTIAL

PAGE 01 LIMA 02066 01 OF 02 031904Z

47

ACTION ARA-10

INFO OCT-01 ISO-00 ARAE-00 L-03 EB-07 CIEP-01 TRSE-00

COME-00 SS-15 SSO-00 NSC-05 NSCE-00 SP-02 CIAE-00

INR-07 NSAE-00 INRE-00 H-02 XMB-02 /055 W

----- 109155

O 031820Z MAR 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9129

C O N F I D E N T I A L SECTION 1 OF 2 LIMA 2066

FOR ARA - WILLIAM ROGERS; L- MONROE LEIGHT; EB - JOSEPH GREENWALD
CIEP - WAYNE SHARPE; TREASURY - JOHN BUSHNELL ; COMMERCE -
DON ARRILL

EO 11652: GDS

TAGS: EIMN, EIND, EINV, PFOR, PE

SUBJECT: MARCONA - NEGOTIATIONS APPEAR STALEMATED

1. SUMMARY: SEPARATE MEETINGS WITH CHIEF PERUVIAN NEGOTIATORS AND WITH MARCONA REPRESENTATIVES ON TUESDAY, MARCH 2 REVEALED THAT ALTHOUGH BOTH SIDES CONTINUE TO EDGE SLIGHTLY TOWARD EACH OTHER, A SETTLEMENT MAY BE UNOBTAINABLE BY MARCH 11 DEADLINE. U.S. GROUP MET TWICE WITH MARCONA TO DISCUSS PERUVIAN BOOK VALUE CALCULATIONS AND TO SEEK MARCONA APPROVAL FOR U.S. COUNTEROFFER IN \$70-75 MILLION RANGE IF GOP CAME UP WITH FIRM \$30 MILLION OFFER. FURTH, IN CONTRAST TO FLEXIBILITY EXPRESSED LAST WEEK IN WASHINGTON, SAID \$75 MILLION WAS HIS BOTTOM LINE AND DECLINED TO PERMIT U.S. GROUP TO GO BELOW \$79 MILLION PRESENTATION FISHLOW AND EINAUDI ALSO MET WITH DE LA PUENTE AND BROUSSET IN SUBSTANTIVELY TENSE TWO HOUR MEETING. PERUVIAN NEGOTIATORS PREPARED TO CONCEIVE FINAL SETTLEMENT IN RANGE OF \$30 MILLION OR SLIGHTLY HIGHER, BUT WOULD NOT COMMIT THEMSELVES TO SUCH A FIGURE AS PRICE OF ENTRY. COMMISSION MEETING PREVIOUSLY SCHEDULED FOR AFTERNOON TO HEAR U.S. COUNTERPRESENTATION
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 LIMA 02066 01 OF 02 031904Z

THEREFORE CANCELLED. END SUMMARY.

2. IN MORNING SESSION WITH MARCONA, U.S. GROUP REVIEWED COURSE OF MONDAY EVENING COMMISSION SESSION, INDICATING THAT NO COUNTEROFFER WOULD BE MADE UNLESS GOP CAME UP WITH FIGURE OF AT LEAST \$30 MILLION. FISHLOW INDICATED THAT IF THIS OCCURRED, HE WOULD WANT TO MAKE COUNTERPROPOSAL IN \$70-75 MILLION RANGE (BASED ON GOING CONCERN VALUATION). THIS RANGE, HE SAID, WAS IMPORTANT TO SHOW REAL FLEXIBILITY OF USG (E.G. WELL BELOW \$100 MILLION) BUT AT THE SAME TIME TO ILLUSTRATE NEED FOR GOP TO COME UP WITH MUCH HIGHER FIGURE. THIS APPROACH WOULD BE PRESENTED IN TERMS OF ABOUT \$25 MILLION CASH, THE REST IN ORE AND FREIGHT PAYMENTS. FURTH SAID HE WOULD CONSIDER THE PROPOSAL, AND ALSO PROVIDE ADDITIONAL DETAILS ON THE GOP BOOK VALUE FIGURES LATER IN THE DAY.

3. FISHLOW AND EINAUDI THEN WENT TO FOREIGN MINISTRY IN EFFORT TO DETERMINE EXTENT OF FLEXIBILITY IN CURRENT PERUVIAN NEGOTIATING FRAMEWORK BEYOND THE \$19 MILLION LEVEL EXPLICITLY TABLED THE EVENING BEFORE. DE LA PUENTE AND BROUSSET MADE CLEAR THAT PREVIOUS EVENINGS'S BASE BOOK VALUE FIGURE OF \$9.2 MILLION, ALREADY INCREASED TO \$19 MILLION BY ADDING INTER-COMPANY TRANSFERS AND COMPENSATION ELEMENT OF TRANSPORT CONTRACT, COULD BE BROUGHT UP TO \$30 MILLION--WITH SOME EFFORT. THEY HAD IN MIND MINOR REDUCTIONS IN NEW TAX CLAIMS, POSSIBLE EXTENSION OF REDUCED TRANSPORT CONTRACTS, AND AN ARRANGEMENT WHEREBY ORE MIGHT BE SOLD TO MARCONA ON TERMS ENABLING SMALL ADDITIONAL COMPENSATION.

4. PERUVIAN EXPOSITION MADE CLEAR THAT GOP NEGOTIATORS WERE LOCKED INTO THEIR CURRENT APPROACH TO BOOK VALUE, AND THAT THEY HAD LESS LATITUDE IN A NUMBER OF AREAS (FIXED ASSETS, TAX CLAIMS, AND THE DEPLETION CASE), THAN WE HAD HOPED. FISHLOW REMARKED THAT IF THIS WAS THE BEST THAT COULD BE DONE, THERE WAS NO POINT IN CONTINUING THE NEGOTIATIONS. WE WOULD, HE SAID, PLAN TO RETURN HOME THAT EVENING. THE PERUVIANS, HE ADDED, HAD CLEARLY MADE A SIGNIFICANT EFFORT, AND HE APPRECIATED THEIR HONESTY IN DEALING WITH US, BUT THEY HAD FAILED TO MEET THE MINI-CONFIDENTIAL

CONFIDENTIAL

PAGE 03 LIMA 02066 01 OF 02 031904Z

MUM LEVELS REQUIRED TO GIVE ANY HOPE OF AN ECONOMICALLY REASONABLE AND POLITICALLY ACCEPTABLE SETTLEMENT.

5. BROUSSET THEN NOTED THAT WE HAD FOR THREE MONTHS LIMITED OURSELVES TO ENDORSING MARCONA'S CLAIM FOR \$100 MILLION. WHAT, HE ASKED, HAD BEEN THE RESULTS OF THE STANFORD RESEARCH INSTITUTE STUDY? WHAT WAS THE USG POSITION? FISHLOW ANSWERED THAT THE SRI STUDY WAS

NOT YET FULLY COMPLETED, BUT THAT IT WAS PRECISELY BECAUSE WE KNEW THE RANGE OF VALUES CONFIRMED BY THAT STUDY THAT WE HAD TO INSIST ON PERU'S INCREASING ITS INITIAL OFFER. BROUSSET THEN ATTEMPTED TO ELICIT FURTHER INFORMATION BY ASKING WHETHER, IN THE HYPOTHETICAL CASE THAT PERU WERE ABLE TO MAKE AN INITIAL OFFER OF \$30 MILLION, AN ADDITIONAL \$9-\$12 MILLION DOLLARS WOULD SUFFICE. FISHLOW ANSWERED THAT THE USG WAS NOT IN THE BUSINESS OF BUYING SECOND-HAND MINES AND THAT THE REAL PROBLEM WAS TO REACH A SETTLEMENT THAT WOULD BE ACCEPTABLE UNDER U.S. LAW AND ACCEPTABLE TO THE MARCONA CORPORATION. THE USG COULD NOT BE EXPECTED TO UNDERWRITE PERU'S ECONOMIC MALPRACTICE.

6. DE LA PUENTE THEN RAISED THE POSSIBILITY OF LETTING TIME HELP RESOLVE THE APPARENT IMPASSE. HE SUGGESTED A 30-DAY EXTENSION OF THE MARCH 11 DEADLINE, ARGUING THAT THIS WOULD ALLOW TIME FOR PRICE WATERHOUSE TO COMPLETE ITS AUDIT, FOR THE PERUVIAN TAX AUTHORITIES TO COMPLETE THEIR REVIEW OF MARCONA'S DEFENSE, AND FOR THE DIFFERENT ELEMENTS OF THE SITUATION TO GENERALLY PERCOLATE. FISHLOW RESPONDED THAT THIS WOULD BE MOST DIFFICULT BECAUSE A DELAY WOULD RISK HARDENING THE U.S. POSITION AND POSSIBLE ELECTORAL COMPLICATIONS WITHOUT GAINING REAL BENEFITS SINCE THE NEGOTIATORS ON BOTH SIDES ALREADY HAD AVAILABLE MOST OF THE RELEVANT ACCOUNTABLE ITEMS AND A GOOD IDEA OF THE RESULTS OF THE TAX FINDINGS. THE PERUVIANS AGREED THAT THIS WAS IN FACT SO.

7. DE LA PUENTE AGREED THAT IT WOULD BE BEST TO CANCEL THE COMMISSION MEETING SCHEDULED FOR THAT AFTERNOON. HE NOTED, HOWEVER, THAT SINCE THE FULL COUNCIL OF MINISTERS WAS MEETING ALL DAY. HE AND BROUSSET MIGHT ENCOUNTER DIFFICULTIES IN COMMUNICATING.

CONFIDENTIAL

PAGE 04 LIMA 02066 01 OF 02 031904Z

ING THIS NEW SITUATION IMMEDIATELY TO THE MINISTERS DIRECTLY INVOLVED. FISHLOW THEN REELECTED AND INDICATED THAT THE U.S. TEAM WOULD REMAIN THROUGH TOMORROW. IT WAS AGREED THAT MEETINGS WOULD BE ARRANGED IN THE MORNING WITH THE FOREIGN MINISTER AND POSSIBLY THE PRIME MINISTER.

8. U.S. TEAM THEN MET WITH FURTH AND BRADFIELD IN THE AFTERNOON TO REVIEW RESULTS OF NOON MEETING WITH PERUVIANS AND TO OBTAIN FROM FURTH MARCONA'S ASSESSMENT OF THE GOP EVALUATION PRESENTED LAST EVENING. FURTH REACTED TO FISHLOW'S REVIEW BY SAYING THAT U.S. TEAM HAD DONE A GOOD JOB. FURTH THEN STATED THAT THE PERUVIAN CALCULATION OF LIABILITIES COULD BE REDUCED BY A MINIMUM OF TEN MILLION DOLLARS BECAUSE THE PERUVIANS (A) SUBSTANTIALLY OVERESTIMATED MARCONA'S LIABILITY FOR A RETROACTIVE WAGE

INCREASE, (B) HAD USED AN UNFAVORABLE EXCHANGE RATE
TO CONVERT SOLES TO DOLLARS AND (C) HAD NOT ACCURATELY
REFLECTED RECENT EXIM LOAN REPAYMENTS.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 LIMA 02066 02 OF 02 031913Z

47

ACTION ARA-10

INFO OCT-01 ISO-00 ARAE-00 L-03 EB-07 CIEP-01 TRSE-00

COME-00 SS-15 SSO-00 NSC-05 NSCE-00 SP-02 CIAE-00

INR-07 NSAE-00 INRE-00 H-02 XMB-02 /055 W

----- 109268

O 031820Z MAR 76

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9130

C O N F I D E N T I A L SECTION 2 OF 2 LIMA 2066

9. THE DISCUSSION THEN TURNED TO THE APPROACH THE U.S.
TEAM SHOULD TAKE WERE THE PERUVIANS TO NOW RAISE THEIR
OFFER TO THE \$30 MILLION RANGE. IN RESPONSE TO FISHLOW'S
MORNING PROPOSAL OF A COUNTEROFFER IN THE \$70-75 MILLION RANGE,
FURTH SUGGESTED THAT TO BE CONSISTENT WITH GOP APPROACH
WE MIGHT BETTER MAKE A COUNTERPROPOSAL WHICH CENTERED ON
A BOOK VALUE OF \$100 MILLION PLUS, SO THAT AFTER DEDUC-
TIONS THE NET VALUATION WOULD BE \$90 MILLION. FURTH
ADDED, HOWEVER, THAT HE WAS PREPARED TO AUTHORIZE US TO
INFORM THE PERUVIANS THAT THE USG HAD CONVINCED MARCONA
TO COME DOWN ANOTHER \$10 MILLION, TO \$80 MILLION. HE
STATED THAT HE HAD NO AUTHORITY TO GO BELOW \$75 MILLION,
WHICH WAS THE LOWEST OFFER HE WAS PREPARED TO ACCEPT.
ON THIS POINT HE WANTED TO MAKE CLEAR TO THE U.S. TEAM
THAT HE WAS NOT PREPARED TO SETTLE FOR LESS.

10. FISHLOW RESPONDED THAT THE BOOK VALUE APPROACH WOULD
ONLY CONFUSE MATTERS. AMONG OTHER REASONS, THE U.S. BOOK
VALUE, WHICH THE PERUVIANS HAVE SEEN, IS \$82 MILLION.
FOR US TO SUDDENLY ARGUE THAT IT WAS \$100 MILLION WOULD
NOT BE PARTICULARLY HELPFUL. HE STATED THAT AN ONGOING
VALUE CALCULATION MADE MORE SENSE. FURTH IN EFFECT ANSWERED
THAT HE WAS MORE CONCERNED ABOUT THE AMOUNT OF THE OFFER

THAN THE METHOD OF ARRIVING AT IT. FISHLOW NOTED THAT HIS SENSE OF THE NEGOTIATIONS WAS THAT AN OFFER NOW OF ABOUT \$70 TO \$75 MILLION WOULD HAVE THE GREATEST IMPACT IN
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 LIMA 02066 02 OF 02 031913Z

PRODUCING AN ULTIMATE SETTLEMENT AS HIGH AS POSSIBLE. NOTHING HAD HAPPENED, FISHLOW POINTED OUT, TO CHANGE HIS ASSESSMENT THAT THE PERUVIANS WOULD SETTLE FOR SOMETHING IN THE \$40 TO \$60 MILLION RANGE. IF WE DID NOT LAY A BASIS FOR A SETTLEMENT THIS ROUND, IT DID NOT SEEM LIKELY THAT ONE WOULD RESULT BEFORE MARCH 11; IT IS CONCEIVABLE THAT A DELAY ON OUR SIDE MIGHT BE NECESSARY TO SORT OUT OUR POSITION.

11. FINALLY, U.S. GROUP MET WITH BRADFIELD TUESDAY NIGHT AND AGAIN WEDNESDAY MORNING TO DISCUSS TACTICS AT GREATER LENGTH. RESULT WAS MARCONA'S AUTHORIZATION TO U.S. GROUP TO MAKE COUNTER OFFER OF \$75 MILLION, PROVIDING GOP FIRST COMES UP WITH FIRM \$30-MILLION OFFER.

12. COMMENT STRATEGIC ENVIRONMENT OF NEGOTIATIONS IS BECOMING INCREASINGLY COMPLEX. PERU'S WIDELY FELT DETERIORATING ECONOMIC SITUATION CREATES GREAT PRESSURE FOR A RAPID SETTLEMENT. TO CAVE NOW BY PAYING A LARGE SETTLEMENT, HOWEVER, WOULD UNDERSCORE GOP ECONOMIC AND POLITICAL INCOMPETENCE, LEADING TO FURTHER CRITICISM IN A SHAKY POLITICAL SITUATION. THE AMOUNT OF THE SETTLEMENT THUS BECOMES CRITICAL. THE LOWER IT IS, OF COURSE, THE MORE READILY IT CAN BE AGREED TO. THE HIGHER, HOWEVER, THE GREATER THE TEMPTATION TO JUNKER DOWN AND TRY TO GO IT ALONE. THE FACT THAT PERU'S ECONOMIC SITUATION WILL BE DIFFICULT EVEN WITH A SETTLEMENT MAY MAKE SUCH A BREAK AT LEAST SUPERFICIALLY APPEALING, PARTICULARLY AS A CONFLICT OVER MARCONA WOULD WRAP GOP IN PERUVIAN FLAG AND POSSIBLY DISPLACE SOME OF BLAME FOR GENERAL ECONOMIC SITUATION ONTO U.S. THIS PESSIMISTIC SCENARIO IS NOT A PROBABILITY, BUT IT HIGHLIGHTS THE LIMITATIONS UNDER WHICH GOP STILL NEGOTIATING. WE WILL HAVE BETTER SENSE OF SPECIFICS AFTER MARCH 3.
DEAN

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NATIONALIZATION, COMPENSATION, NEGOTIATIONS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: powellba
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976LIMA02066
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760081-0285
From: LIMA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197603100/aaaadkfn.tel
Line Count: 265
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: powellba
Review Comment: n/a
Review Content Flags:
Review Date: 21 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 JUL 2004 by saccheem>; APPROVED <28 OCT 2004 by powellba>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MARCONA - NEGOTIATIONS APPEAR STALEMATED
TAGS: EMIN, EIND, EINV, PFOR, PE, US, MARCONA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006